

4. The Defendant/Claimant admits that on February 1, 2022, the F/V BING BING was on a clamming voyage, but denies all other allegations contained in Paragraph Four of Petitioner's Complaint.
5. The Defendant/Claimant admits that on February 1, 2022, the F/V BING BING sank, but denies all other allegations contained in Paragraph Five of Petitioner's Complaint.
6. The Defendant/Claimant is without sufficient knowledge or information to enable him to admit or deny the allegations contained in Paragraph Six and therefore denies the same.
7. The Defendant/Claimant admits that three crew members were rescued, but is without sufficient knowledge or information to enable him to admit or deny the allegations contained in Paragraph Seven and therefore denies the same.
8. The Defendant/Claimant is without sufficient knowledge or information to enable him to admit or deny the allegations contained in Paragraph Eight and therefore denies the same.
9. Denied.
10. Defendant/Claimant admits a letter of representation on his behalf was sent to Bing Bing Corporation on February 16, 2022, but is without sufficient knowledge or information to enable him to admit or deny the allegations contained in Paragraph Ten and therefore denies the same.
11. Denied.
12. The Defendant/Claimant is without sufficient knowledge or information to enable him to admit or deny the allegations contained in Paragraph Twelve and therefore denies the same.
13. This paragraph sets forth a statement of law, legal claims and/or legal conclusions and does not require a response from the Defendant/Claimant. To the extent a response is required, the Defendant/Claimant denies Paragraph Thirteen.

14. This paragraph sets forth a statement of law, legal claims and/or legal conclusions and does not require a response from the Defendant/Claimant. To the extent a response is required, the Defendant/Claimant denies Paragraph Fourteen.
15. This paragraph sets forth a statement of law, legal claims and/or legal conclusions and does not require a response from the Defendant/Claimant. To the extent a response is required, the Defendant/Claimant denies the Paragraph Fifteen.
16. Defendant/Claimant admits that venue is proper within the District of Massachusetts but is without sufficient knowledge or information to enable him to admit or deny the allegations contained in Paragraph Sixteen and therefore denies the same.

I. PRAYER FOR RELIEF

- A. Paragraph A is a statement of the relief the Plaintiff seeks and/or the law to which no response is required from the Defendant/Claimant. To the extent a response is required, the Defendant/Claimant denies the paragraph.
- B. Paragraph B is a statement of the relief the Plaintiff seeks and/or the law to which no response is required from the Defendant/Claimant. To the extent a response is required, the Defendant/Claimant denies the paragraph.
- C. Paragraph C is a statement of the relief the Plaintiff seeks and/or the law to which no response is required from the Defendant/Claimant. To the extent a response is required, the Defendant/Claimant denies the paragraph.
- D. Paragraph D is a statement of the relief the Plaintiff seeks and/or the law to which no response is required from the Defendant/Claimant. To the extent a response is required, the Defendant/Claimant denies the paragraph.

E. Paragraph E is a statement of the relief the Plaintiff seeks and/or the law to which no response is required from the Defendant/Claimant. To the extent a response is required, the Defendant/Claimant denies the paragraph.

AFFIRMATIVE DEFENSES

Now comes the Defendant/Claimant and incorporates the following affirmative defenses into each and every Paragraph contained in their Answer to Plaintiff's Petition as follows:

AND FURTHER ANSWERING AND AS A COMPLETE AND SEPARATE DEFENSE the Plaintiff has failed to comply with Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure and Local Rules of Civil Procedure for the United States District Court District of Massachusetts.

AND FURTHER ANSWERING AND AS A COMPLETE AND SEPARATE DEFENSE the Defendant/Claimant says that the Plaintiff's Petition fails to state a claim upon which relief may be granted.

AND FURTHER ANSWERING AND AS A COMPLETE AND SEPARATE DEFENSE the Defendant/Claimant says that this action was not commenced within the time required by the applicable statute and rules of limitations and not commenced within 6 months after a Defendant/Claimant provided the Plaintiff with written notice of a claim.

AND FURTHER ANSWERING AND AS A COMPLETE AND SEPARATE DEFENSE the Defendant/Claimant says that Plaintiff has failed to make or give notice and/or effectuate service of its process in accordance with Orders of the Court, the Federal Rules of Civil Procedure and/or Rule F of the Supplemental Rules for Certain Admiralty and Maritime Claims.

AND FURTHER ANSWERING AND AS A COMPLETE AND SEPARATE DEFENSE that the Plaintiff failed to post its interest in the F/V BING BING at the time the Petition of Bing Bing Corp. was filed, to wit the value of the commercial fishing permits appurtenant to the vessel at the time of the F/V BING BING sank and/or the Petition of Bing Bing Corp. for Exoneration from/or Limitation of Liability was filed with this Court. The stipulation of appraisal is insufficient under the applicable rules and/or statutes to satisfy the vessel owner's obligation to post bond.

AND FURTHER ANSWERING AND AS A COMPLETE AND SEPARATE DEFENSE that the cause, fault and/or defect giving rise to the sinking was within the privity and knowledge of the Plaintiff.

AND FURTHER ANSWERING AND AS A COMPLETE AND SEPARATE DEFENSE that the Limitation of Liability Act, is discriminatory in Defendant/Claimant's property rights without due process of law, in violation of the Fifth and Fourteenth Amendments to the Constitution of the United States.

WHEREFORE, the Defendant/Claimant requests that This Honorable Court:

- A. Deny and/or dismiss Plaintiff's Complaint for Exoneration from or Limitation of Liability;
- B. Enter a decree lifting the restraining order barring the prosecution of civil actions and/or,
- C. Enter a Judgment or Decree finding Plaintiff legally liable for the damages of the Defendant/Claimant, Krisitian Ostapchuk arising from the sinking of the F/V BING BING, and further finding that the cause, fault and/or defect giving rise to sinking were within the privity and knowledge of the Plaintiff.

**Respectfully submitted for the
DEFENDANT/CLAIMANT, KRISTIAN
OSTAPCHUK BY HIS ATTORNEY,**

/s/ Carolyn M. Latti
Carolyn M. Latti
BBO #567394
LATTI & ANDERSON LLP
30-31 Union Wharf
Boston, MA 02109
(617) 523-1000
clatti@lattianderson.com

DATED: October 13, 2022

CERTIFICATE OF SERVICE

I hereby certify that on October 13, 2022, I electronically filed the herewith document, with the Clerk of the Court using CM/ECF system which will send notification of such filing(s) to all counsel of record.

Respectfully submitted for the
the Defendant/Claimant,

/s/Carolyn M. Latti
Carolyn M. Latti